IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.8882 OF 2004 WITH
WRIT PETITION NO.8773 OF 2004

Shri. Prem Harinarayan Lakhani.
...Petitioner.
Vs.
M/s. Jamuna Sagar Co.op.Hsg. Society and ors.
...Respondents.
And

Smt. Lata P. Lakhani.
...Petitioner.
Vs.
M/s. Jamuna Sagar Co.op. Hsg. Society and ors.
...Respondents.

Mr. D.H. Mehta with M.G. Mimani for Petitioners.
Mr. Ramrao Adik with Peter Lobo for Respondent No.1.

CORAM : D.B. BHOSALE, J.
DATED : 24/11/2004.

PC :

1. Mr. Mehta, learned counsel for the petitioners at the out set submits that the petitioners be given liberty to challenge the impugned order in revision before the Joint Registrar as provided under Section 154 of the Maharashtra Co.op. Housing Societies Act,1960. He further submits that the petitioner be given 12 weeks time to deposit 50% amount of the total amount of recoverable dues. Mr. Adik, learned Sr. Counsel for respondent No.1 has no objection for

granting such liberty and he fairly submitted that the society will not raise an issue of limitation before the said authority. After having heard the learned counsel for the parties, I am satisfied that following order will meet the ends of justice.

a) The petitioners to file revision application before the Joint Registrar within two weeks from today.

b) The petitioners will have the liberty to deposit 50% amount of the total recoverable dues within a period of 12 weeks from today. On petitioner depositing the aforestated amount the revision be entertained on merits without entering into an issue of limitation.

c) Mr. Mehta states that the petitioners who are present in court, undertake that they shall not create third party interest or part with possession of the flats in question in respondent No.1 society till the disposal of their revision applications and 15 days thereafter. His statement is accepted.

d) Mr. Adik, learned Sr. Counsel for respondent No.1 states that the society will refund the amount deposited if petitioners ultimately succeed in the instant case with 6% per annum interest thereon. His

statement is also accepted.

e) The recovery certificate shall not be executed for a period of 12 weeks from today, and if 50% amount as aforestated is deposited, till disposal of the revision applications of the petitioners and for a further period of 15 days if the order passed in the revision applications is adverse to the petitioners.

f) The Divisional Joint Registrar shall decide the revision applications if filed on merits and in accordance with law expeditiously. While passing this order I shall not be understood to have examined the merits of the case.

g) Both the Petitions are disposed of.

. All concerned to act on a copy of this order duly authenticated by the Sheristedar/C.S. of this court.

(D.B. BHOSALE, J.)